## Real Property Levy Writ of Execution

# Court Document(s) Required:

Our Office requires real property levies to be served by a Registered Process Server (RPS) per Code of Civil Procedure § 699.080 and

§ 700.015. Prior to the levy, the RPS must open a file with our office and deposit with the Sheriff:

- Original letter of instructions signed and dated by the judgment creditor's attorney or the judgment creditor (if the judgment creditor does not have an attorney).
- Required fees
- A copy of the Writ of Execution (form EJ 130)
- A copy of the Notice of Levy (form EJ 150) for all services to be performed: e.g. Recorders Office, posting of property, service to debtors, legal owners, third parties, etc.

The RPS must have in his/her possession the levy packet upon opening a file with our office which consists of the following:

- Original Writ of Execution—Money Judgment (form EJ-130)
- Notice of Levy
- Legal description of the property
- List of exemptions--If applicable

Letter of Instructions	The letter of instructions must specify the type of levy requested. The letter of instructions must specify if the real property contains a dwelling as defined by Code of Civil Procedure § 704.710 and must include a legal description of the property to be levied upon as well as the street address. Specify whether the real property also stands in the name of third persons (recorded owners other than the judgment debtor) as indicated by county records. If yes, list the names and addresses of all third parties as well as all a.k.a.(s) of the debtor. Specify whether the real property is a leasehold estate. If yes, provide the date when the leasehold expires.  The judgment creditor's attorney or the judgment creditor (if the judgment creditor does not have an attorney) must sign and date the instructions.
Time for Service	The Writ of Execution expires 180 days after issuance.
Method of Levy	The method of levy is the creation of a lien against the property. This is accomplished by filing the Writ of Execution, Notice of Levy and other documents with the County Recorder of the county in which the real property is located. The lien includes a description of the property levied upon and states that the judgment debtor's interest in the described property has been levied upon. The recording of the levy creates a judicial lien, which initiates the process of selling the real property in a Sheriff's sale. Proceeds from the Sheriff's sale are credited towards satisfying the money judgment against the judgment debtor. Real property (execution) levies in Contra Costa County must be served by a Registered Process Server (RPS) per Code of Civil Procedure § 699.080 and § 700.015. Prior to the levy, the RPS must open a file with our office with required fees. After levy, the RPS must file with the Sheriff within five (5) days the following:  • Original Writ of Execution

	Proof of service for all the recording (to include the recording document number), posting the property, service on the debtors and third parties
	If required fees have been received by the Sheriff, the Sheriff will perform all other duties under the Writ of Execution and return the writ to the court with an accounting of action taken.
Cost Deposit	\$570.00 cost deposit for recording, publishing, posting, issuance of a deed or certificate of sale and notary services.
Fee	\$30.00 if served, \$30.00 if unable to serve or cancelled.
Writ Return	A return detailing the Sheriff's actions is prepared by Civil Unit staff, which accompanies the Writ of Execution when it is returned to the court.

#### [ Click Here for a Sample Letter of Instructions-Form E pg. 1 ]

#### [ Click Here for a Sample Letter of Instructions-Form E pg. 2 ]

## **What is Required Check List:**

- \$600.00 fee and cost deposit
- Original Writ of Execution
- Notice of Levy
- Required Fees
- Original letter of instructions signed and dated by the judgment creditor's attorney or the judgment creditor (if the judgment creditor does not have an attorney).
- Legal description of the property
- List of exemption—if the defendant is a natural person
- Service packages for:
  - Recorder's Office
  - Debtor(s)
  - Posting of property
  - Third party—if applicable

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#### TO LEVY UPON REAL PROPERTY

	the attorney for the creditor, or the creditor if he / she has no ce with CCP 262; 687.010.
	VS.
Plaintiff	Defendant
Court Case Number	Levy Officer's File Number - if known
<ul> <li>Check here if this is supplemental information or add</li> <li>Provide the original and 5 copies of the writ (and</li> <li>Provide the required advance deposit for fees and</li> <li>Below, select the type of writ and provide all the</li> </ul>	any attachments to the writ). d costs.
attachment AND the defendant has not been pr complaint, you are required, pursuant to CCP 4 the summons and complaint when the writ is se	of attachment. When levy is pursuant to a writ of eviously served with a copy of the summons and 88.020(c), to instruct the levying officer to serve a copy of erved upon the defendant.  complaint upon the defendant (s). I am providing two each defendant to be served.
☐ <b>Writ of Execution</b> (money judgment)  Does the real property contain a dwelling? ☐ Y	es 🗆 No
Writ of Sale - Provide a certified copy of the Judgment The judgment is for the  1 □ partition of real property.  2 □ judicial foreclosure of a  2a □ mortgage or deed of trust.  The judgment indicates that a defici □ may be ordered.  □ is waived or prohibited.  2b □ special assessment property tax or public entity or district).  2c □ assessment lien by an association 2d □ mechanics lien (labor or improvem 2e □ other lien(s) on real property.  Is a "right of redemption" applicable to the sale of the	iency judgment  r Mello-Roos tax lien (judgment creditor is a or common interest development. ents to real property).
<ul><li>This levy seeks to levy upon (or attach) real property</li><li>NAME:</li></ul>	interest of the following judgment debtor (s) / defendant (s):
ADDRESS: (include mailing address)	
NAME.	
NAME:	
ADDRESS: (include mailing address)	

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•	Does the judgment debtor's / defendant's interest in the real property consist of a leasehold interest (may also be referred to as a "leasehold estate" or an "estate for years")? $\Box$ Yes $\Box$ No. If yes, provide the date the lease expires:					
•	Provide the common street address for the real property (if any). The common street address must be included on the subsequent notice of sale. If this is vacant land, please indicate:					
•	Attach to this sheet the legal description of the property. Include the assessor's parcel number. Ensure that the legal description is typed and clear enough for recording purposes. (provide assessor's map if either vacant land or no common street address exists):					
•	Does the real property also stand in the name of a person (other than the judgment debtor/defendant) having a recorded interest in the real property as shown by the records of the county? $\Box$ Yes $\Box$ No.					
	If yes, provide the names and addresses of all such third persons. The Sheriff is required to serve (by mail) a copy of the writ and notice of levy on each such third person. Section 700.015 of the Code of Civil Procedure requires that if "service on the third person is by mail, it shall be sent to the person at the address for such person, if any, shown by the records of the office of the tax assessor of the county where the real property is located or, if no address is so shown, to the person at the address used by the county recorder for the return of the instrument creating the interest of the third person in the property."					
•	List the names and address of the third person (s). Attach a separate sheet if necessary.					
NA	ME:					
	DDRESS:					
	ME:					
AD	DRESS:					
	☐ Additional names and addresses of third persons are contained on a separate sheet.					
	Signature of attorney Date					
ΤE	L ( ) Ext					
FΑ	X() Ext.					

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